

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

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4 TREASURE ISLAND, LLC,

Case No. 2:20-cv-00965-JCM-EJY

5 Plaintiff,

6 v.

**ORDER**

7 AFFILIATED FM INSURANCE COMPANY,

8 Defendant.  
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10 Before the Court is Plaintiff's Motion to File Under Seal (ECF No. 88), which seeks to seal  
11 the portions of its Third Motion to Compel and the entirety of the exhibits thereto (ECF No. 89). No  
12 response to this Motion was filed.

13 As the party seeking to seal a judicial record, Plaintiff must meet their burden of overcoming  
14 the strong presumption in favor of access and public policies favoring disclosure. *Kamakana v. City*  
15 *and Cnty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (holding that those who seek to  
16 maintain the secrecy of documents attached to dispositive motions must meet the high threshold of  
17 showing that "compelling reasons" support secrecy). The mere fact that the production of records  
18 may lead to a party's embarrassment, incrimination, or exposure to further litigation will not alone  
19 compel the court to seal its records. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136  
20 (9th Cir. 2003).

21 Here, Plaintiff's Motion asks the Court to issue an order sealing the unredacted version of its  
22 Third Motion to Compel because it seeks production of documents relevant to Defendant's responses  
23 to Plaintiff's First Set of Interrogatories "which were identified through the testimony of  
24 Defendant[s] ... witness." ECF No. 88 at 2. Plaintiff further states that pursuant to the parties'  
25 stipulated protective order, the Motion and exhibits "summarize or otherwise disclose Confidential  
26 Documents or Attorney's Eyes Only Material" and, therefore, are properly sealed. *Id.*

27 A review of ECF No. 89, the redacted Third Motion to Compel, which Plaintiff filed under  
28 seal, should *not* have been filed under seal. The exhibits to the Third Motion to Compel are *not*

1 redacted, and also filed under seal. However, the entirety of these exhibits need not be  
2 sealed. Moreover, Plaintiff refiled its unredacted Third Motion to Compel under seal at ECF No.  
3 139, as was ordered by the Court; however, the exhibits attached to ECF No. 139 are *not* identical  
4 to the exhibits attached to ECF No. 89. This difference is troubling to the Court.

5 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion to File Under Seal (ECF  
6 No. 88) is DENIED.

7 IT IS FURTHER ORDERED that ECF No. 89, the redacted version of the Third Motion to  
8 Compel shall be unsealed.

9 IT IS FURTHER ORDERED that Exhibits 2 through 6 attached to the Third Motion to  
10 Compel (ECF No. 89) shall remain temporarily sealed.

11 IT IS FURTHER ORDERED that Plaintiff shall succinctly, but clearly, file a Report with  
12 the Court within five (5) court days of the date of this Order, explaining the difference between the  
13 exhibits attached to ECF Nos. 89 and 139. This explanation shall identify which exhibits are  
14 properly attached to the Third Motion to Compel.

15 IT IS FURTHER ORDERED that Plaintiff shall review the exhibits it has filed in support of  
16 its Third Motion to Compel and seek to seal only those exhibits or portions of exhibits that should  
17 be sealed. For example, interrogatory and document requests are not ordinarily properly sealed,  
18 while a response to such requests may be properly sealed in whole or in part. Plaintiff shall then  
19 refile the exhibits that are properly attached to the Third Motion to Compel, as identified in the  
20 Report, as follows: (i) redacted *not under seal* with the document titled "Revised Exhibits to Third  
21 Motion to Compel – Redacted," and (ii) unredacted *under seal* with the document titled "Revised  
22 Exhibits to Third Motion to Compel – Under Seal." Plaintiff shall accomplish these filings within  
23 ten (10) court days of the date of this Order.

1 IT IS FURTHER ORDERED that cover pages to exhibits are not exhibits and shall not be  
2 filed as such or under seal.

3 IT IS FURTHER ORDERED that Plaintiff shall make all efforts to file future documents  
4 properly.

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6 DATED this 25th day of May, 2021.

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10 ELAYNA J. YOUCHAH  
11 UNITED STATES MAGISTRATE JUDGE  
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